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The opinion in support of the decision being entered today is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte DOUGLAS D. LECLEAR and CAROLYN L. SLONE

Appeal 2007-1802
Application 10/648,575
Technology Center 1700

Decided: September 5, 2007

Before THOMAS A. WALTZ, JEFFREY T. SMITH, and LINDA M. GAUDETTE, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-5, and 7-9, the only claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

The invention relates to a vacuum cleaner for a vehicle having a vacuum canister and a retractable hose fluidly connected to it.

(Specification [0009]). Claim 1 is illustrative of the invention and is reproduced below:

1. A vacuum system for a vehicle comprising:

a hose storage module adapted to house a retractable vacuum hose having a first end and a second end;

a vacuum console adapted to house a vacuum nozzle attached to the first end of the vacuum hose; and

a vacuum canister fluidly connected to the second end of the vacuum hose, the hose storage module being positioned within the vehicle and configured to allow the retractable hose to reach any portion of the interior space of the vehicle.

The Examiner relies on the following prior art references to show unpatentability:

Laurent	FR 2 689 474	Oct. 8, 1993
Schollmayer	DE 299 21 025	Apr. 27, 2000
Harrelson	6,817,058 B1	Nov. 16, 2004

The Examiner made the following rejections:

Claims 1-3 and 5 stand rejected under 35 U.S.C. § 103 as unpatentable over the combined teachings of Laurent and Schollmayer.

Claims 4 and 7-9 stand rejected under 35 U.S.C. § 103 as unpatentable over the combined teachings of Laurent, Schollmayer, and Harrelson. [1]

[1] Appellants have not provided separate arguments for the rejected claims. We will limit our discussion to claim 1. We will refer to the English-language translations for the Laurent and Schollmayer references that have been entered into the present record.

Based on the contentions of the Examiner and the Appellants, the issue before us is: Has the Examiner made accurate and sufficient factual findings such that it is reasonable to conclude that one of ordinary skill in the art would have been motivated to combine the teachings of the references in the manner claimed within the meaning of 35 U.S.C. § 103? We answer this question in the affirmative.

Under 35 U.S.C. § 103, the factual inquiry into obviousness requires a determination of: (1) the scope and content of the prior art; (2) the differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) secondary considerations. *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966). "[A]nalysis [of whether the subject matter of a claim would have been obvious] need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ." *KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727, 1740-41, 82 USPQ2d 1385, 1396 (2007) (*quoting In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336-337 (Fed. Cir. 2006)). *See DyStar Textilfarben GmBH & Co. Deutschland KG v. C.H. Patrick Co.*, 464 F.3d 1356, 1361, 80 USPQ2d 1641, 1645 (Fed. Cir. 2006)("The motivation need not be found in the references sought to be combined, but may be found in any number of sources, including common knowledge, the prior art as a whole, or the nature of the problem itself."); *In re Bozek*, 416 F.2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969)("Having established that this knowledge was in the art, the examiner could then properly rely, as put forth by the solicitor, on a conclusion of obviousness 'from common knowledge and common sense of

the person of ordinary skill in the art without any specific hint or suggestion in a particular reference.'"); *In re Hoeschele*, 406 F.2d 1403, 1406-407, 160 USPQ 809, 811-12 (CCPA 1969) ("[I]t is proper to take into account not only specific teachings of the references but also the inferences which one skilled in the art would reasonably be expected to draw therefrom . . ."). The analysis supporting obviousness, however, should be made explicit and should "identify a reason that would have prompted a person of ordinary skill in the art to combine the elements" in the manner claimed. *KSR*, 127 S. Ct. at 1739, 82 USPQ2d at 1396.

The Examiner has found that Laurent describes a vacuum system for a vehicle comprising a hose storage module having storage space and adapted to house a retractable vacuum hose and a vacuum canister fluidly connected to an end of the vacuum hose (Answer 4). Laurent discloses the hose is capable of automatic winding (Laurent 5, para. 5). Laurent discloses the vacuum console can be integrated into the construction of the vehicle and attached adjacent to the central console (Laurent 5, para. 5).

The Examiner found that Schollmayer describes a vacuum cleaner system for a vehicle comprising a vacuum console that houses the vacuum nozzle (Answer 4). Schollmayer discloses the nozzle suction portion of the vacuum cleaning system is located behind the armrests portion of the rear seat (Schollmayer 6, para. 2). The Examiner concluded that it would have been obvious to a person of ordinary skill in the art to provide Laurent with a console in view of the teaching of Schollmayer in order to be able to access the hose as well as hide it when not in use (Answer 4).

Appellants argue that a person of ordinary skill in the art would not combine the teachings of the Laurent and Schollmayer references.

Appellants argue that Laurent and Schollmayer do not provide a teaching, suggestion, or motivation within the references to combine their teachings (Br. 7-8). Appellants argue that Laurent and Schollmayer teach away from making the combination (Br. 8-9).

We do not find Appellants' arguments persuasive. The claimed invention specifies that the "vacuum console" is adapted to house a vacuum nozzle. The present Specification does not provide a specific definition for the shape or arrangement of the "vacuum console." The Specification indicates that the vacuum console may sit adjacent to the vehicle seat or can be a part of the vehicle seat (Specification [0026]). Laurent and Schollmayer describe a vacuum console that may sit adjacent to the vehicle seat or can be a part of the vehicle seat. The claimed invention encompasses the teaching of Laurent which describes the vacuum console as being placed beneath the seat. The claimed invention also encompasses the teachings of Schollmayer that describe the nozzle suction portion of the vacuum cleaning system as located behind the armrests portion of the rear seat. We agree with the Examiner that a person of ordinary skill in the art would combine the teachings of Laurent and Schollmayer to gain the advantage of hiding/storing the vacuum cleaner and hose out of sight (Answer 6-7).

Regarding the rejections of claims 4 and 7-9, Appellants essentially rely upon the arguments presented for the rejection of claim 1 (Br. 13-14). These arguments are not persuasive for the reasons set forth above and in the Answer. Thus, we will uphold the rejection.

The 35 U.S.C. § 103 rejection of claims 1-5 and 7-9 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(i)(iv).

AFFIRMED

sld/ls

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